

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

We Can Build It, LC/Paul Prueitt,
Petitioner-Appellant,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-25-0730
Parcel No. 16-22-178-002

On August 9, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, We Can Build It, LC/Paul Prueitt, requested a hearing. Realtor Rick Wanamaker of Iowa Realty, West Des Moines, Iowa, was designated as its legal representative and represented it at hearing. The Board of Review designated County Attorney Wayne M. Reisetter as its legal representative. It was represented by Assessor Steve Helm at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

We Can Build It, LC/Paul Prueitt , (Build It) owner of property located at 9464 Winterberry Drive, West Des Moines, Iowa, appeals from the Dallas County Board of Review decision reassessing its property. According to the property record card, the subject property consists of a two-story, frame dwelling having 2997 total square feet of living area. It has a full basement with 1235 square feet of finish and a 716 square-foot attached, three-car garage. The property is also improved by a 55 square-foot open porch and a 144 square-foot wooden deck. The improvements were built in 2007. The dwelling has a 2+10 quality grade classification. The improvements are situated in a residential subdivision known as Michael's Landing on a 0.273 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$395,000, representing \$85,000 in land value and \$310,000 in improvement value. This is the same as the 2009 assessment.

Build It protested to the Board of Review on the grounds that there has been a change in value under Iowa Code sections 441.37(1) and 441.35(3). The Board of Review denied the protest.

Build It filed its appeal with this Board and urged the same ground. It claims \$295,000 is the actual value and fair assessment of the subject property.

Rick Wanamaker testified on behalf of Build It. He reported the property had been listed for sale since November 2007. Originally, it was listed for \$454,860 and the price was reduced periodically between 2007 and 2009. Records indicate the property was sold at sheriff's sale in August 2009. It was then sold by the lender as part of a three-parcel purchase totaling \$510,000 in December 2009 to Build It. The properties were unfinished at the time of this sale and had partial assessments. Build It completed the construction of the subject property and re-listed it in January 2010 for \$399,900. The list price was reduced to \$349,900 in March 2010. Build it sold it to the current owner, Paul Prucitt, for \$335,000 in April 2010.

According to Wanamaker, an experienced realtor for Iowa Realty, the decrease in value specific to the Michael's Landing subdivision started in September 2008 when Regency Builders, the largest builder in Iowa at that time, went out of business. Michael's Landing was expected to be a large flagship development until Regency's collapse. Wanamaker testified it currently has only twenty to thirty houses scattered among un-mowed, weedy, vacant, and abandoned lots on incomplete roads. Properties are owned by five different banks, and less than 10% of the subdivision is built out. Wanamaker reported the City will not issue any more building permits in the subdivision until the streets and infrastructure are finished.

Wanamaker testified that potential buyers make negative comments about the properties. The image of the property changed dramatically from the top-market-value position it once had. This decline has prompted bargain hunting and forced sellers to accept lower sale prices. He believes the property's fair market value was approximately \$400,000 on January 1, 2009, which declined to \$335,000 on January 1, 2010.

In *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996), the Court determined that, "It is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value." A sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. *Id.* While the subject property's 2009 sheriff's sale and lender sale may be abnormal, there is no indication that the most recent sale by Build It to Pruiett was not an arm's length transaction and valid indicator of the fair market value of the subject property in April 2010.

The Board of Review did not submit any evidence in addition to the certified record and had no witnesses at hearing.

Wanamaker provided significant, credible evidence the market in the subject property's subdivision has significantly declined since Regency Builders went out of business in 2008 and the development project has largely been abandoned. Although he offered an educated guess of the subject property's actual market value on January 1, 2009, as compared to its January 1, 2010, value, it fell short of the proof necessary to show a change in value. We believe the record strongly suggests Build It's property could be over-assessed if 2010 were a regular assessment year. However, the evidence does not demonstrate there has been a downward change in its property's value since the last reassessment which is necessary to prevail in an interim year. We recommend the assessor review this property and its assessment given the evidence strongly suggesting over assessment.

After reviewing the record as a whole, we find that the preponderance of the evidence is insufficient to prove there has been a change in the value of Build It's property since the last reassessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

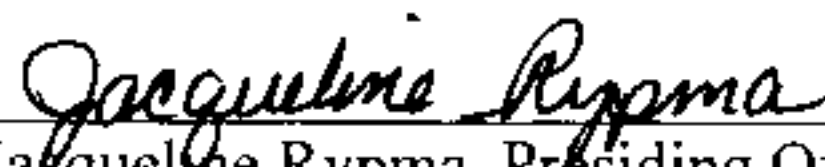
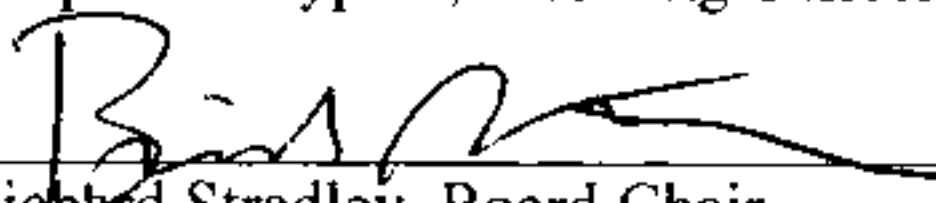
In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. While the record suggests the subject property could be over-assessed as of January 1, 2010, it falls short of the proof necessary to prove the interim year ground of change in value since the last reassessment.

We find a preponderance of the evidence fails to prove there has been a change in the value of the subject property since the last reassessment as of January 1, 2010.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Dallas County Board of Review is affirmed.

Dated this 30 day of August 2011.


Jacqueline Rypma, Presiding Officer

Richard Stradley, Board Chair

Copies to:
Rick Wanamaker
Iowa Realty
1516 35th Street (Valley West Drive)
West Des Moines, Iowa 50266
LEGAL REPRESENTATIVE FOR APPELLANT

Wayne Reisetter
Dallas County Attorney
207 N. 9th Street
Adel, IA 50003-1444
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-30</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input checked="" type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier